



TO: Workforce Development Board Directors
WorkOne Operators
Youth Coordinators

FROM: Regina Ashley, Associate Chief Operations Officer for Policy
Indiana Department of Workforce Development

DATE: December 17, 2015

SUBJECT: MEMORANDUM
Interim Guidance on WIOA Title I Youth Work Experience

REA

Purpose

The purpose of this policy is to provide guidance to local Workforce Development Boards, their operators, and their service providers regarding the definition and requirements of the provision of work experience opportunities under the Workforce Innovation and Opportunity Act (WIOA).

References

Workforce Innovation and Opportunity Act Section 129
Proposed Regulations §§681.460, §§681.480, §§681.590, §§681.600, §§681.610

Background

The Workforce Innovation and Opportunity Act renewed the work experience program element provided by the Workforce Investment Act. Work experience is one of the fourteen (14) required program elements that must be made available to all registered youth and should be offered throughout the program year. However, under WIOA, the work experience program element was given additional emphasis, with an added stipulation of a minimum 20% expenditure rate of the region's allocated amount of overall youth funding for all youth participants. The proposed rules cite work experience as a critical element that can be correlated to higher high school graduation rates and success in the labor market.

Content

Work experiences are designed to provide career exploration opportunities and help youth understand in-demand employability skills and employer expectations that are necessary in order to attain and retain employment in today's job market. The Workforce Innovation and Opportunity Act includes the following four categories of youth work experiences:

1. Summer employment opportunities and other employment opportunities throughout the school year;
2. Pre-apprenticeship programs;

3. Internships and job shadowing; and
4. On-the-job training opportunities

Work experiences should help youth acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment. Work experience can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for youth. All work experiences should expose youth to realistic working conditions and tasks as much as possible.

All work experiences must include some form of academic or occupational learning as a component of the program element. The academic or occupational learning could occur before, during, or after the work experience; but it must occur within a reasonable timeframe for relevancy in the work experience placement. This could include certifications earned in a pre-apprenticeship program; employability skills and employer expectations that would make a participant successful on the job; or specific skills or knowledge needed to perform daily duties and tasks of a specific career.

One example of an occupational learning component required for a pre-apprenticeship would include OSHA 3110- Fall Protection Certification course. At a work experience or internship experience, the participant could be asked to create a manual for future interns at the worksite which would allow them to research the company and know the specific Human Resources requirements for the employer. Additionally, the direct linkage between certification training and preparation and an ongoing work experience placement would meet the requirements of both academic and occupational learning.

Youth work experiences are planned, structured learning experiences that take place for a limited period of time. A work experience can be paid or unpaid and may take place in the private for-profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act or applicable State law, exists. Work experiences must be based on identified needs of the individual youth. Use of the work experience program element must be based on an objective assessment and identified on the youth's Individual Service Strategy (ISS) or Academic and Career Plan (ACP).

- A. **Definitions:** Definitions of each of the four work experience categories are listed below and include maximum flexibility in the provision of these services for the regional Workforce Development Boards:
 1. Summer employment opportunities or other employment opportunities throughout the school year: A short-term employment opportunity or work experience, either full or part-time that is conducted mainly during the summer months or for a similar timeframe during other months of the year. These opportunities could arise as are necessary for the youth, or be part of a larger scale summer employment program.
 2. Pre-apprenticeship programs: As defined in TEN No. 13-12, a pre-apprenticeship is a program or set of strategies designed to prepare individuals to enter and succeed in a Registered Apprenticeship program and has a documented partnership with at least one, if not more, Registered Apprenticeship program(s). All pre-apprenticeship programs must meet the following quality standards:
 - a. Approved training and curriculum
 - b. Strategies for long-term success
 - c. Access to appropriate support services
 - d. Promotes greater use of Registered Apprenticeship to increase future opportunities
 - e. Provides meaningful hands-on experience that does not displace paid employees
 - f. Facilitated entry and/or articulation
 3. Internships and job shadowing opportunities: An internship is a form of learning that integrates classroom knowledge with practical application and skills development in a professional setting. Internships should be viewed as an extension of the participant's educational experience and,

where possible, should align with their career interests and pathways. Internships could be paid or unpaid but should align with the Fair Labor Standards Act, “Test for Unpaid Interns.”

A job shadowing experience is a short-term, unpaid activity which introduces a participant to the workplace and provides exposure to occupational areas of interest to increase career awareness. Job shadowing is limited and allows youth to observe only.

4. On-the-job training opportunities: As defined in Department of Workforce Development *On-the-Job Training Guidelines under the Workforce Innovation and Opportunity Act (WIOA)*, Policy 134-P1, on-the-job training is training by an employer that is provided to a paid participant while engaged in productive work in a job that:
 - a. Provides knowledge or skills essential to the full and adequate performance of the job;
 - b. Is made available through a program that provides reimbursement to the employer of a percentage of the wage rate of the participant; and
 - c. Is limited in duration as appropriate to the occupation for which the participant is being trained; taking into account the content of the training, prior work experience of the participant, and the service strategy for the participant.
 - d. Provides the expectation that the employer will hire the OJT participant upon successful completion of the OJT.

- B. **Payments:** Payments for the participants could come in many forms, but some work experience opportunities could be unpaid. Workforce Development Boards (WDBs) could provide an incentive for completion of a goal or expected outcome based on the predetermined Individual Service Strategy (ISS) or they could offer a stipend, which would be a fixed, regular payment similar to an allowance. WDBs should ensure that any stipend be in alignment with the entry level wage for the particular occupation or career. While an incentive could be used to reward or motivate a participant, it cannot be included in the 20% minimum expenditure requirement.

Many participants are “hired on” as employees of the service provider or Workforce Development Board during their short-term work experience. As the employer of record, the service provider or WDB would be subject to Fair Labor Standards Act, Child Labor laws, health and safety standards and other applicable laws regarding wages, benefits and insurance.

- C. **Employers/worksites:** Appropriate and committed worksite locations for work experiences are at the discretion of the local Workforce Development Board. However, WDBs should seek employers who understand the barriers and needs of the youth participants and be willing to be flexible with their needs. Additionally, employers should work closely with program staff for monitoring the learning goals and outcomes of the participants, as well as assisting them in addressing challenges that may arise during the work experience.

Attention must be given to ensure that work experience arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements. Work experience, including internships, in the private for-profit sector must be structured so as not to appear to be subsidizing private, for-profit operations. The work of the participant should not materially impact the profit margin of a private, for-profit company.

- D. **Worksite Agreement:** The WDB must ensure that the youth provider has a written agreement to ensure compliance with WIOA and all applicable federal and state regulations. The agreement is a written document that details terms and conditions of a paid or unpaid work experience and the expectations of the parties to the agreement. The written agreement is between the participant, the site employer or host site, and the youth provider or employer of record.

The written agreement, which may be called a worksite agreement, job site agreement, or host site agreement, must include at a minimum:

- a. Duration;

- b. Remuneration;
- c. Tasks and duties;
- d. Supervision;
- e. Health and safety standards; and
- f. Other conditions of work experience such as consequences of not adhering to the agreement and a termination clause.

The worksite or host site entity, the participant, and the youth provider should all be given a copy of the agreement. The agreement must be available for audit and monitoring purposes.

- E. **Expenditures:** The Workforce Innovation and Opportunity Act's requirement of a minimum 20% expenditure of the region's allocated amount of overall youth funding related to work experience program activities allows WDBs to provide these services for both in-school and out-of-school youth. In order to ensure that this requirement is met, local areas should track program funds spent on paid and unpaid work experiences and report such expenditures as part of the local WIOA youth financial reporting. Program expenditures on the work experience program element could include participant related costs for wages or stipends, as well as board and service provider staff-related costs for the development and management of work experiences, including processing timecards, monitoring and site visits, and outreach to employers. Supportive services including incentives, clothing, or transportation assistance and local area administrative costs are not included in the work experience related costs and are not subject to the 20% minimum work experience requirement.

Effective Date

Immediately

Ending Date

Upon rescission

Contact for Questions

policy@dwd.in.gov

Action

Regional Workforce Development Boards shall ensure that the guidance contained within this policy is followed regarding the work experience program element for the Workforce Innovation and Opportunity Act Youth program participants.